***UNITED STATES DISTRICT COURT***
**SOUTHERN DISTRICT OF CALIFORNIA**

**United States of America**

**v.**

**Gabino Garcia-Bautista**

Citizen of Mexico

USM#: 72960-208 DOB: 1980

# JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed on or After November 1, 1987)

**No. 07-10689-001M-SD**

Lorna Spencer (AFPD)
Attorney for Defendant

ICE#: A99 825 697

**THE DEFENDANT ENTERED A PLEA OF** guilty on 10/25/2007 to Count TWO of the Complaint.

**ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S):** violating Title 8, USC § 1325, Illegal Entry, a Petty offense, as charged in Count TWO of the Complaint.

**IT IS THE JUDGMENT OF THE COURT THAT** the defendant is hereby committed to the custody of the Bureau of Prisons for a term of THIRTY (30) DAYS on Count TWO, with credit for time served.

## CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk the following total criminal monetary penalties:

**SPECIAL ASSESSMENT:** $Remitted **FINE:** $ **RESTITUTION:** $

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than $25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, 880 Front Street, San Diego, California 92101. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of $Remitted shall be paid pursuant to Title 18, United States Code, Section 3013 for Count TWO of the Complaint.

Any unpaid balance shall become a condition of supervision and shall be paid within prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S. District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

IT IS FURTHER ORDERED that the Clerk of the Court deliver two certified copies of this judgment to the United States Marshal of this district.

The Court orders commitment to the custody of the Bureau of Prisons.
The defendant is remanded to the custody of the United States Marshal.

Date of Imposition of Sentence: **Thursday, October 25, 2007**

______________________________________ Date 10/25/2007
JAY R. IRWIN, United States Magistrate Judge

**RETURN**

I have executed this Judgment as follows:______________________________________

Defendant delivered on ____________ to ____________ at ____________, the institution designated by the Bureau of Prisons, with a certified copy of this judgment in a Criminal case.

______________________________ By:______________________________
United States Marshal Deputy Marshal

07-10689-001M-SD -

UNITED STATES DISTRICT COURT MAGISTRATE JUDGE'S MINUTES
SOUTHERN DISTRICT OF CALIFORNIA - Yuma

DATE: 10/25/2007 CASE NUMBER: 07-10689-001M-SD

**PLEA/SENTENCING MINUTES**

USA vs. Gabino Garcia-Bautista

U.S. MAGISTRATE JUDGE: JAY R. IRWIN Judge #: 70BK

U.S. Attorney ____________ INTERPRETER REQ'D Ricardo Gonzalez
LANGUAGE: Spanish

Attorney for Defendant Lorna Spencer (AFPD)

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☐ RELEASED ☒ CUSTODY

DOA 10/24/07 ☒ Complaint Filed ☒ Appointment of counsel hearing held
☐ Financial Afdvt taken ☒ No Financial Afdvt taken ☐ Financial Afdvt sealed
☒ Initial Appearance

**DETENTION HEARING:** ☐ Held ☐ Cont'd ☐ Reset ☐ UA
Set for: before:

☐ Defendant ordered temporarily detained in the custody of the United States Marshal
☐ Defendant ordered released (see order setting cond of rel) ☐ Bail set at $________
☐ Defendant continued detained pending trial ☐ Flight Risk ☐ Danger

**PLEA HEARING:** ☒ Held ☐ Cont'd ☐ Reset
Set for: before:

☐ Consent to be tried by a Magistrate Judge signed ☐ Class A Misd ☐ Class B Misd ☐ Class C Misd
☐ Consent of Defendant ☐ Information filed ________ ☐ Complaint filed ________
☒ Defendant sworn and examined by the Court ☒ Plea of Guilty ☐ Not Guilty ☒ Entered to Counts TWO
☐ Defendant states true name to be _____. Further proceedings ORDERED in defendant's true name.
☒ Plea of Guilty entered as to Ct(s) TWO of the ☐ Information ☐ Indictment ☒ Complaint
☒ Court recommends/or accepts defendant's plea and finds plea to be freely and voluntarily given.
☐ Plea agreement: ☐ Lodged ☐ Filed ☐ Sealed
☐ Court does not accept defendant's plea of guilty because ________
☐ PSI ORDERED ☐ EXPEDITED ☒ PSI waived ☐ Time waived for passage of sentence
☐ Continued for sentence to ___ before ________
☒ To be dismissed upon entry of the judgment, Ct(s) ONE
☒ ORDER vacate trial date/motion hearing/mtns moot
☐ ORDER defendant remain released pending sentence ☒ remanded to USM

SENTENCING:

☒ Defendant committed to Bureau of Prisons for a period of 30 days ☐ Probation/Supervised Release for ________
☒ Special Assessment $ REMITTED ☐ Fine $______ ☐ Restitution $______

Other: ________

RECORDED: CS
BY: Angela J. Tuohy, Deputy Clerk

# United States District Court

## SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
V.
Gabino GARCIA-Bautista
Citizen of Mexico
YOB: 1980
A99 825 697
Illegal Alien

CRIMINAL COMPLAINT

CASE NUMBER: 07-10689M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

COUNT I

That on or about September 11, 2006, Defendant Gabino GARCIA-Bautista was arrested and removed from the United States to Mexico through the port of Nogales, Arizona, in pursuance of law, and thereafter on or about October 24, 2007, Defendant was found in the United States near Yuma, Arizona within the District of Arizona, the Secretary of the Department of Homeland Security not theretofore having consented to any reapplication by the Defendant for admission into the United States and after the Defendant had willfully and unlawfully returned and remained in the United States; in violation of Title 8, United States Code, Section 1326 (Felony).

COUNT II

That on or about October 23, 2007, within the Southern District of California, Defendant Gabino GARCIA-Bautista, an alien, did knowingly and willfully enter the United States at a time or place other than as designated by Immigration Officers; in violation of Title 8, United States Code, Section 1325 (Misdemeanor).

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Signature of Complainant
Artemio Garcia
Senior Patrol Agent

Sworn to before me and subscribed in my presence,

October 25, 2007 at Yuma, Arizona
Date City and State

Jay R. Irwin, U.S. Magistrate
Name & Title of Judicial Officer Signature of Judicial Officer

STATEMENT OF FACTUAL BASIS

Defendant: Gabino GARCIA-Bautista

Dependents: 2 Mexican

**IMMIGRATION HISTORY:** The Defendant was last removed through Nogales, Arizona on September 11, 2006 and has 15 prior Border Patrol arrests.

**CRIMINAL HISTORY:**

| **DATE/LOCATION** | **OFFENSE** | **DISPOSITION** |
|---|---|---|
| None Found | | |

Narrative: The Defendant, a citizen of Mexico and illegally within the United States, was encountered by Yuma Border Patrol agents near Yuma, Arizona.

The Defendant was questioned as to his citizenship and immigration status. From that questioning agents determined that the Defendant is an undocumented national of Mexico and illegally in the United States.

The Defendant was transported to the Yuma station for processing. During processing, questioning and computer record checks the above criminal and immigration information was obtained as it relates to this Defendant.

The Defendant last entered the United States illegally without inspection near Andrade, California on October 23, 2007.

Charges: 8 USC§1326 (Felony)
8 USC§1325 (Misdemeanor)

Signature of Complainant

Sworn to before me and subscribed in my presence,

October 25, 2007
Date

Signature of Judicial Officer